

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Ralph Holder

v.

Civil No. 10-cv-448-JD

G. Michael Bahan, et al.

O R D E R

Ralph Holder brought federal civil rights claims and state law claims against G. Michael Bahan, James Boffetti, and John Hannigan, arising from the circumstances of Holder's arrest and prosecution on criminal threatening charges. The defendants moved to dismiss the claims, and Holder objected only in part. The court granted the motion to dismiss, and judgment has been entered. Holder now moves for reconsideration, and the defendants object.

Motions for reconsideration have a limited application. United States v. Allen, 573 F.3d 42, 53 (1st Cir. 2009). A motion to alter or amend a judgment under Federal Rule of Civil Procedure 59(e) may be granted "only where the movant shows a manifest error of law or newly discovered evidence."¹ Prescott

¹Holder, who is represented by counsel, is confused about what standard applies. He mistakenly cites Local Rule 7.2(a) that pertains to motions to extend time. Because judgment has entered, Local Rule 7.2(e), which applies to reconsideration of interlocutory orders, also is inapposite.

v. Higgins, 538 F.3d 32, 45 (1st Cir. 2008). The movant cannot raise new arguments for the first time in support of his motion and cannot prevail by merely restating previous arguments. Vallejo v. Santini-Padilla, 607 F.3d 1, 7 n.4 (1st Cir. 2010); Prescott, 538 F.3d at 45.

In his motion, Holder argues that the court improperly referred to prior cases Holder has brought, which also arose out of his perceptions of injustice beginning with his disputed divorce and custody proceedings. Specifically, Holder objects to the court's reference to Holder v. Newton, 09-cv-341-JD (D.N.H. 2010). The court has reviewed the references to Holder's previous cases and finds nothing to support reconsideration.

Holder also contends that the court erred in dismissing several claims as time-barred without considering Therrien v. Sullivan, 153 N.H. 211 (2006). As the court noted in the order dismissing Holder's claims, he failed to respond to most of the arguments the defendants raised in support of their motion to dismiss, including the issue of the statute of limitations.² Holder did not cite Therrien or make any argument to counter the defendants' assertion of the time bar. As the defendants explain

²Holder mistakenly thought that the defendants' motion to dismiss had to be supported by affidavits and moved to strike the motion. His motion to strike was denied.

thoroughly in their objection to the motion for reconsideration, Therrien does not govern the claims that were dismissed here. Therefore, Holder's argument lacks merit.

Holder also misunderstands the basis for dismissing his malicious prosecution claims. As is explained in the order, Holder's federal claims against James Boffetti were based on Boffetti's role as prosecutor and were barred by prosecutorial and qualified immunity. The state malicious prosecution claim was dismissed on the merits for failure to state a claim.

Conclusion

For the foregoing reasons, the plaintiff's motion for reconsideration (document no. 21) is denied.

SO ORDERED.



Joseph A. DiClerico, Jr.
United States District Judge

April 14, 2011

cc: Nancy J. Smith, Esquire
Sven D. Wiberg, Esquire